

"Express Mail" mailing label No. EL 863876731 IIS

Date of Deposit December 28, 2001

Patent

Attorney's Docket No. 033297-116

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR FILING CONTINUATION/DIVISIONAL  
APPLICATION UNDER 37 C.F.R. § 1.53(b)

Box PATENT APPLICATION

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This is a request for filing a ☒ continuation ☐ divisional application under 37 C.F.R. § 1.53(b) of pending Application No. 08/883,246 filed on June 26, 1997, for DEVICE AND METHOD FOR SUTURING TISSUE, by the following named inventor(s):

(a)	Full Name	<u>Bernard H. Andreas</u>
(b)	Full Name	<u>Michael Barrett</u>
(c)	Full Name	<u>Mark J. Foley</u>
(d)	Full Name	<u>Brian Gore</u>
(e)	Full Name	<u>Lewis Isbell</u>
(f)	Full Name	<u>Ronald Songer</u>
(g)	Full Name	<u>James W. Vetter</u>
(h)	Full Name	<u>Enrique J. Klein</u>
(i)	Full Name	<u>Dan Gross</u>
(k)	Full Name	<u>Tomoaki Hinohara</u>

- ☐ Applicant(s) hereby requests that the above-captioned application **NOT BE PUBLISHED** under 35 U.S.C. § 122(b) and 37 C.F.R. § 1.211. The undersigned hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.
- ☒ The entire disclosure of the prior application from which a copy of the oath or declaration is supplied herewith is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☐ This application is being filed by less than all the inventors named in the prior application. In accordance with 37 C.F.R. 1.63(d)(2), the Commissioner is requested to delete the name(s) of the following person or persons who are not inventors of the invention being claimed in this application.

(a) Full Name \_\_\_\_\_



21839

(7/01)

11002 U.S. PTO  
10/033689  
12/28/01

*Handwritten:* 10/033689 to 2  
A

(b) Full Name \_\_\_\_\_  
(c) Full Name \_\_\_\_\_

☐ This application is being filed by more than all the inventors named in the prior application. In accordance with 37 C.F.R. 1.63(d)(5), a new oath or declaration is enclosed, and the Commissioner is requested to add the name(s) of the following person or persons who are inventors of the invention being claimed in this application.

(a) Full Name \_\_\_\_\_  
(b) Full Name \_\_\_\_\_  
(c) Full Name \_\_\_\_\_

☒ Applicant(s) suggests Figure 9 for inclusion on the front page of the patent application publication and/or patent.

1. ☐ Enclosed is a copy of the prior Application No.      as originally filed on     , including copies of the specification, claims, drawings and the executed oath or declaration as filed.
2. ☒ Enclosed is a revised prior application and a copy of the prior executed oath or declaration as filed. No new matter has been added to the revised application.
3. ☐ Small entity status is hereby claimed.
4. ☒ The filing fee is calculated below ☐ and in accordance with the enclosed preliminary amendment:

CLAIMS					
	NO. OF CLAIMS		EXTRA CLAIMS	RATE	FEE
Basic Application Fee					\$740.00 (101)
Total Claims	23	MINUS 20 =	3	× \$18.00 (103) =	54.00
Independent Claims	3	MINUS 3 =	0	× \$84.00 (102) =	0.00
If multiple dependent claims are presented, add \$280.00 (104)					0.00
Total Application Fee					794.00
If small entity status is claimed, subtract 50% of Total Application Fee					0.00
Add Assignment Recording Fee of \$ <u>    </u> if Assignment document is enclosed					0.00
<b>TOTAL APPLICATION FEE DUE</b>					<b>794.00</b>



**21839**

5. ☐ Charge \$ \_\_\_\_\_ to Deposit Account No. 02-4800 for the fee due.
6. ☒ A check in the amount of \$ 794.00 is enclosed for the fee due.
7. ☒ The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.
8. ☐ Cancel in this application original claims \_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
9. ☐ New drawings are enclosed.
10. ☐ Priority of Application No. \_ filed on \_ in \_ (country) is claimed under 35 U.S.C. § 119.
- ☐ The certified copy of the priority application
- ☐ is enclosed.
- ☐ was filed on \_ in prior Application No. \_, filed on \_, and acknowledged by the Examiner on \_ in Paper No. \_.
- ☐ has not yet been filed.
11. ☒ Please amend the specification by inserting before the first line the sentence:
- 
- ☒ --This application is a ☒ continuation ☐ divisional of Application No. 08/883,246, filed on June 26, 1997.--
- 
- ☐ --This application is a ☐ continuation ☐ divisional of U.S. Application No. \_, filed on \_, which was a national stage filing under 35 U.S.C. § 371 of International Application No. \_ filed on \_, which International Application ☐ was ☐ was not published by the International Bureau in English on \_.--
- ☐ --This application is a ☐ continuation ☐ divisional of U.S. Application No. \_, filed on \_, which was a continuation of International Application No. \_, filed on \_, which International Application ☐ was ☐ was not published by the International Bureau in English on \_.--
12. ☐ A preliminary amendment is enclosed.
13. ☒ An Associate Power of Attorney as filed in the parent case on December 6, 2001 is enclosed.




21839

14. ☒ A Petition Under 37 CRF §1.48 To Change Inventorship as filed in the parent case on August 10, 2001 is enclosed.
15. ☒ Also enclosed return postcard.
16. ☒ The power of attorney in the prior application is to T. Gene Dillahunty & Kelly McCrystle & the associate power of attorney (filed December 6, 2001) is to David R. Heckadon.
- a. ☒ The power appears in the original papers in the prior application.
  - b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
  - c. ☐ Recognize as Associate Attorney   .
  - d. ☒ Address all future communications to: (May only be completed by applicant, or attorney or agent of record.)

T. Gene Dillahunty  
BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
P.O. Box 1404  
Alexandria, Virginia 22313-1404

Date: December 28, 2001

By:   
David R. Heckadon  
Registration No. P-50,184

ADDRESS OF SIGNATOR:

BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(650) 622-2300

☐ inventor(s)  
☐ assignee of complete interest  
☒ attorney or agent of record  
☐ filed under 37 C.F.R. § 1.34(a)



21839